

Commonwealth of Virginia

REQUEST FOR PROPOSAL
RFP # 720C-04357-13R

Issue Date: February 5, 2013

Issue Title: Phase I and Phase II of Virginia's Systems Transformation for Individuals with Intellectual Disability/Developmental Disabilities (ID/DD)

Issuing Agency: Department of Behavioral Health and Developmental Services (DBHDS)
P.O. Box 1797, Richmond, Virginia 23218-1797

Location Where Work Will Be Performed: DBHDS, Central Office, 1220 Bank Street, Richmond, VA 23219.

Period of the Contract: May 1, 2013 through June 30, 2014.

Renewals: Contract may be renewed for up to 2 additional 3-month periods upon mutual agreement between all parties.

Proposals will be received for furnishing services described herein until:
Friday, April 12, 2013 – 2:00 PM EST

Deadline for Submitting Comments Questions	Interested parties may submit written comments or questions on any aspect of this RFP by email on or before 5:00 p.m. Friday, March 29, 2013. Please submit your comments and questions to David Ray at: david.ray@dbhds.virginia.gov or Mike Oprysko at: mike.oprysko@dbhds.virginia.gov No other questions will be responded to after the March 29, 2013 deadline.
Copies of RFP and Answers to Submitted Questions	May be obtained at www.dbhds.virginia.gov on left side of screen click on Procurements, then click on link to Solicitations for the Office of Administrative Services and look for solicitation number assigned.

Proposal Delivery Information:

All Proposals shall be sealed in an envelope or box and addressed: DBHDS, Office of Administrative Services. If mailed, send to P.O. Box 1797, Richmond, VA 23218-1797; if hand delivered Jefferson Building, 8th Floor - Room 811, 1220 Bank Street, Richmond, Virginia, 23219. Envelopes should be marked with RFP number and opening date and time. It is the Offeror's responsibility to assure that proposals are received and logged in by Procurement Operations staff at the location indicated by the date and time above, regardless of the method of delivery. LATE proposals will NOT be accepted under any circumstances. This page and the following signature page and all other pages of this RFP must accompany your proposal, with all information supplied and required signatures. **Facsimile or e-mail transmission of the proposal is not acceptable.**

IN COMPLIANCE WITH THE ABOVE REFERENCED REQUEST FOR PROPOSAL AND TO ALL THE CONDITIONS IMPOSED HEREIN, IN FACT OR BY REFERENCE, THE UNDERSIGNED OFFERS AND AGREES TO FURNISH THE SERVICES IN ACCORDANCE WITH THE ATTACHED SIGNED PROPOSAL OR AS MUTUALLY AGREED UPON BY SUBSEQUENT NEGOTIATION.

Offeror Name and Address:

_____	Date:	_____
_____	By:	_____
_____		<i>(Official Signature in Ink)</i>
Telephone: _____	Printed Name:	_____
FEIN/FIN Number: _____	Title:	_____
FAX Number: _____	Email:	_____
eVA Vendor ID: _____		_____

SWAM Certification Number (if applicable) _____

State Corporation and Commission ID Number _____
(See Special Terms and Conditions)

The following information shall be supplied: (Please Check all that apply)

<input type="checkbox"/>	Contractor DOES consider his/her firm to be a small business.
<input type="checkbox"/>	Contractor does NOT consider his/her firm to be a small business
<input type="checkbox"/>	Contractor IS certified as a small business by VA Department of Minority Business Enterprise.
<input type="checkbox"/>	Contractor is NOT certified as small business by VA Department of Minority Business Enterprise.
<input type="checkbox"/>	Contractor is an eVA-registered vendor.
<input type="checkbox"/>	Contractor is NOT an eVA-registered vendor. (Learn about eVA at www.eva.state.va.us)

Note: This public body does not discriminate against faith-based organizations in accordance with the *Code of Virginia*, § 2.2-4343.1 or against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

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I. PURPOSE:

The purpose of this Request for Proposals (RFP) is to solicit proposals for **proven** service approaches and strategies to accomplish a comprehensive review, analysis, and enhancement to the Virginia Department of Behavioral Health and Developmental Services' (DBHDS) Intellectual Disability (ID) Waiver Program, the Virginia Department of Medical Assistance Services Developmental Disabilities (IFDDS) Waiver Program, and Virginia's developmental services system.

Virginia DBHDS is seeking a "nationally recognized" organization that has the experience and capacity to evaluate state Medicaid waiver systems, redefine systems, and recommend approaches to develop individual resource allocations processes; conduct a study of the current Medicaid rates; recommend a new structure and rates; and design, develop, test and assist in the implementation of the new system. A successful organization will have documented qualifications and experiences with assisting agencies transform Medicaid waiver systems that include previous accomplishments in conducting Medicaid rate studies. Included in this systems change is evaluation of current Waiver administration to transition from two separate ID and DD waivers to a needs-based operation.

II. BACKGROUND:

The Commonwealth of Virginia ("the Commonwealth") and the United States (together, "the Parties") are committed to full compliance with Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, as interpreted by *Olmstead v. L.C.*, 527 U.S. 581 (1999). On August 23, 2012 U.S. District Court Judge John A. Gibney approved the settlement agreement between the Commonwealth and the U.S. Department of Justice regarding Virginia's Intellectual and Developmental Disability Services System. This Agreement is intended to ensure the Commonwealth's compliance with the ADA and *Olmstead*, which require that, to the extent the Commonwealth offers services to individuals with intellectual and developmental disabilities, such services shall be provided in the most integrated setting appropriate to meet their needs.

The Commonwealth is committed to the goals of community integration, self-determination, and quality services for all Virginians who need publically funded support services. To meet the goals of the agreement DBHDS will have to create 4,170 new waiver slots by June 30, 2021, and transition all individuals from four of Virginia's institutions (Training Centers) to the communities of their choice in the most integrated settings.

In order to support the implementation of the 10 year Agreement with the U.S. Department of Justice, the Intellectual Disability (ID), Day Support, or Individual and Family Development Disability Services (IFDDS) waiver programs must be adapted to:

- *Provide individuals with the opportunity to live in the most integrated setting appropriate to their needs.* The current ID and IFDDS waiver programs provide services or supports to permit individuals to live in their own home, family home, or a congregate arrangement. However, the current waiver programs make it difficult to support individuals with complex needs in their own home or family home because of service inflexibility and payment rate problems. Consequently, many individuals elect more expensive congregate models of care, such as group homes, when they could live in more integrated and less expensive environments. Virginia can reduce overall per person cost per slot if more in-home options and/or other individualized arrangements were available.
- *Support individuals with the most complex medical and/or behavioral needs.* Stakeholders and providers report the current program does not provide sufficient payment for skilled nursing and other services to support individuals with complex medical needs. They also report that the current waiver design does not allow an individual to receive 1:1 or greater staffing when they have complex behavioral needs.
- *Support individuals with ID/DD in finding gainful employment* The current waiver programs incentivize day support and pre-vocational employment over group and individual supported employment. In addition, pre-vocational employment has no limitations on participation so individuals may receive this service for years without becoming gainfully employed. These limitations in the waivers make it difficult to advance employment opportunities for individuals.
- Addressing current state and federal fiscal pressures, including growth in the Medicaid program, by examining more effective ways to operate the waiver programs while expanding the number and type of individuals supported through the programs.

Virginia envisions a service system that encompasses the above for individuals with developmental disabilities, based upon the need of each individual versus specific disability. Further, DBHDS seeks a robust system of supports that addresses basic needs at all levels and where the assessed needs of each individual can be addressed within a reasonable timeframe that promotes the growth of each individual to his/her potential.

DMAS is the single state agency responsible for the Medicaid program in Virginia. DBHDS has operational responsibility for the ID and Day Support Waivers. DMAS has operational responsibility for the Individual and Family Developmental Disabilities Services (IFDDS) Waiver. The IFDDS and Day Support Waivers are undergoing a renewal process; both waivers will expire June 2013. The ID Waiver is scheduled for renewal by June 30, 2014. The renewal process for the ID Waiver offers an opportunity to make significant changes to waiver programs to support community integration and design a system for individuals with DD, including ID to more effectively serve these individuals and their families.

2.1 Definitions

- a. Intellectual Disability (ID) Waiver: Virginia's Home and Community Based Waiver Program for individuals with intellectual disabilities. It is operated by the Department of Behavioral Health and Developmental Services.
- b. Individual and Family Developmental Disability Support Waiver (IFDDS) Waiver: Virginia's Home and Community Based Waiver Program for individuals with developmental disabilities. It is operated by the Department of Medical Assistance Services.
- c. ADA: Americans with Disabilities Act.
- d. Stakeholder: A Virginia citizen with intellectual or developmental disability, a Virginia family member of an individual with ID or DD, a community-based provider of supports for individuals with ID or DD, a Community Services Board (CSB), and/or an organization or individual who advocates on behalf of Virginians with ID or DD
- e. Purchasing Agency: A state agency or institution purchasing goods or services.

III. NATURE AND SCOPE OF SERVICES:

3.1 Primary Responsibilities:

Contractor shall evaluate the following:

1. Virginia's current service delivery system and make recommendations to move towards a more person-focused/needs-based system of care
2. Existing Waiver rates and current resource distribution practices

The goals of the Waiver evaluation are to determine how Virginia policy-makers can:

- (1) Develop and implement effective and efficient waiver programs that will be able to sustain increasing service demands by:
 - a. Identifying necessary changes to support underlying system values related to more integrated living environments and supported employment;
 - b. Addressing the support needs of individuals with complex medical and behavioral needs;
 - c. Eliminating unnecessary documentation requirements for providers where feasible;
 - d. Expanding participant directed services, and,
 - e. Streamlining waiver administration processes.
- (2) Establish more equitable distribution of available funds among waiver recipients while addressing regional and locality variations by:

- a. Assuring that funds are authorized accurately and have direct correlation to individual support needs;
- b. Assuring services are reimbursed in ways that are appropriate, reasonable and flexible;
- c. Identifying methods that will reduce the average cost per waiver recipient; and,
- d. Assuring state resources are managed effectively and efficiently.

Data: Virginia has completed Supports Intensity Scale (SIS) assessments for all individuals receiving ID Waiver services and individuals currently residing in five large state-operated ICFs. The evaluations from the SIS and other instruments would be available to the vendor to compare individual's needs to services and costs. The data would permit the vendor to assess the efficacy of individual budget-based and state-level budget based allocations as future tools for understanding and projecting waiver costs. Medicaid claims data would also be available.

The intent of this RFP is to contract for the Phase I and Phase II

PHASE I (May 2013 – August 2013)

- 1.1 Evaluate the efficiency and effectiveness of current waivers, service definitions, billing rate, available units, documentation requirements, and policies that govern the provision of services in accordance with rules and regulations that govern the Medicaid programs.
- 1.2 Report on findings including recommendations and strategies for waiver enhancement.
- 1.3 Conduct stakeholder forums and/or review existing stakeholder forum minutes and other documentation to gain public opinion about the current waivers including service delivery systems, needs, and service satisfaction.
- 1.4 Summarize results of stakeholder forums for public distribution.
- 1.5 Evaluate current SIS administration; assist in improving the quality of SIS data for future waiver operations and fiscal planning.
- 1.6 Develop, submit, and assist DBHDS in implementing a plan for changing or creating new processes for utilizing the SIS data.
- 1.7 Recommend system changes and develop a plan for reducing the number of waivers; including the efficacy of one comprehensive waiver and one supports waiver.
- 1.8 Review proposed changes to ensure that all policies, rules and regulations are met. Provide technical assistance with completing CMS waiver renewals and amendments.

Utilizing the results of the Phase I systems evaluation, **Phase II** will be focused on developing a clear process for allocating state funds based on individual support needs and conducting a rate study. This phase will involve community stakeholders to ensure transparency and community input in the transformation process. It should be noted that the points listed in both phases are not exhaustive, but should be considered as minimums, and the phases can be expanded to achieve overall goals.

PHASE II (September 2013 – June 2014)

- 2.1 Conduct a cost/rate study of the current Medicaid ID/DD/Ds Waivers.
- 2.2 Submit recommendations to Virginia to transition to an individual budgeting or state-level methodology approach which incorporates the Supports Intensity Scale (SIS) to determine waiver funding necessary to provide needed and appropriate supports to individuals with ID..
- 2.3 Propose a new rate structure for approval and/or adoption.
- 2.4 Evaluate the current SIS processes and data from the thousands of SISs that have already been administered.
- 2.5 Provide recommendation for levels and/or ranges to use for individual resource allocation if Virginia decides to transition to individual budgeting.
- 2.6 Conduct an Impact Study of the recommended system changes describing funding needs and other areas that will be affected. (i.e. IT, claims processing edits, rate changes, test affected policies and regulations, and needed operational changes)
- 2.7 Align all changes with DBHDS' Quality Management System

Virginia's DD and Day Support Waivers are due for CMS renewal in June 2013. The ID Waiver is due for renewal in June 2014. The contractor shall assist in recommending, designing and implementing major modifications to the ID Waiver renewal package and developing amendments to the DD and Day Support waivers. The evaluation would be initiated on or about May 2013. Phase I 1.1-1.8 is expected to be completed by August 2013 Phase II will begin September 2013, with the majority of deliverables due in June 2014.

IV. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS:

A. General Instructions:

1. RFP Response: In order to be considered for selection Offerors must submit a complete response to this RFP. One (1) original and four (4) copies plus 4 CD copies must be submitted to the DBHDS in MS Word 2007 (or compatible format). The Offeror shall make no other distribution of the proposal. In addition, the Offeror shall submit a redacted (proprietary and confidential information removed) electronic copy in PDF format of their Technical and Cost Proposal.
2. Proposal Preparation:
 - a. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in the Purchasing Agency requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals, which are substantially incomplete or lack key information may be considered non-responsive and be rejected by the Purchasing Agency. Mandatory requirements are those required by law or are such that they cannot be waived and are not subject to negotiation.

- b. Proposals should be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number, sub letter, and repeat the text requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents, which cross-references the RFP requirements. Information that the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk elimination from consideration if the evaluators are unable to locate where the RFP requirements are specifically addressed.
- d. The proposals shall be typed, bound, page-numbered, single-spaced with a 12-point font on 8 1/2" x 11" paper with 1" margins, and printed on one side only. It shall be acceptable for Offerors to use a larger font size for section headings or a smaller font size for footers, tables, graphics, exhibits, or similar sections. Larger graphics, exhibits, organization charts, and network diagrams may be printed on larger paper as a foldout if 8 1/2" x 11" paper is not practical. Each copy of the Technical Proposal and all documentation submitted shall be contained in single three-ring binder volumes where practical. Each original of the proposal should be bound in single volumes. Each copy shall be bound separately.
- e. As used in this RFP, the terms "must", "shall", "should" and "may" identify criticality or requirements. "Must" and "shall" identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as "should" or "may" are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual "must" and "shall" items may not be fully satisfied, but it is the intent to satisfy most, if not all, "must" and "shall" requirements. The inability of an Offeror to satisfy a "must" or "shall" requirement does not automatically remove that Offeror from consideration; however it may seriously affect the overall rating of the Offerors' proposal.

- f. Ownership of all data, materials and documentation originated and prepared for the Commonwealth pursuant to the RFP shall belong exclusively to the Commonwealth and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the *Virginia Freedom of Information Act*; however, the Offeror must invoke the protections of § 2.2-4342F of the *Code of Virginia*, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and, in the sole discretion of DBHDS, may result in rejection of the proposal.
3. Oral Presentation of Proposal: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to the Purchasing Agency. At the DBHDS sole discretion, these may be via telephone conference call. This will provide an opportunity for the Offeror to clarify or elaborate on the proposal but will in no way change the original proposal. Oral presentations are an option of the agency and may not be conducted.

No Offeror is guaranteed an opportunity to explain, supplement, or amend its initial proposal. Offerors must not submit a proposal assuming that there will be an opportunity to negotiate, amend, or clarify any aspect of their submitted proposals. Therefore, each Offeror is encouraged to ensure that its initial proposal contains and represents its best offering.

B. Specific Proposal Instructions: Proposals should be as thorough and detailed as possible so that the Purchasing Agency may properly evaluate the Offeror's capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

1. Return the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required.
2. Written narrative that includes:

- 2.1. Executive Summary

The Executive Summary Chapter shall highlight the Offeror's:

1. Understanding of the project requirements.

2. Qualifications to serve as Contractor for the project.
3. Overall Approach to the project and a summary of the contents of the proposal.

2.2. Corporate Qualifications and Experience

The Offeror's Qualifications and Experience to serve as the contractor for this project. Specifically, the Offeror shall describe:

1. Organization Status:

- a. Name of the Project Director for the Virginia contract and the amount of time the Project Director is dedicated to this project, initially as well as ongoing, if awarded
- b. Name, address, telephone number, fax number, and e-mail address of legal entity with whom the contract is to be written
- d. The names, addresses, and telephone numbers of principal officers (president, vice-president, treasurer, chairperson of the board of directors, and other executive officers)
- e. Name of the parent organization and major subsidiaries
- f. Major business services
- g. Legal status or whether a for-profit or a not-for-profit company
- h. A list of board individuals and their organizational affiliations
- i. Any specific licenses and accreditation held by the Offeror.

2. Corporate Experience:

- a. The Offeror's overall qualifications to carry out a project of this nature and scope.
- b. The Offeror shall describe the background and success of the Offeror's organization and experience in providing technical assistance to States in evaluating and implementing Waiver programs.
- c. The Offeror's knowledge of Medicaid populations, including persons enrolled in waivers.
- d. Any other related experience the Offeror thinks is relevant shall be included.
- e. The Offeror shall indicate whether the Offeror has had a contract terminated, for any reason, within the last 5 years, and explain the reason.
- f. The Offeror also shall indicate if a claim was made on a payment or performance bond. If so, the Offeror shall submit full details of the termination and the bonds

including the other party's name, address, and telephone number.

2.3 Technical Proposal

The Offeror shall fully describe how it intends to meet all Technical Proposal requirements listed in this RFP. DBHDS does not want a "re-write" of the RFP requirements. Specifically, the Offeror Shall describe in detail its proposed approach for each of the required tasks, including any staff, systems, procedures, or materials that will be used to perform these tasks. This includes how each task will be performed, what problems need to be overcome, what functions the staff will perform, and what assistance will be needed from DBHDS, if any.

2.4 References

References from at least four, non-Offeror owned previous contracts of the similar size, scope and duration as required in the solicitation. References from other governmental clients, public corporations and/or organizations that support individuals with ID/DD. References shall include company name, contact name, contact phone number, address, project title, dates of service, and dollar value of project.

2.5. Financial Stability:

The Offeror shall submit evidence of financial stability. The Offeror shall submit one of the following financial reports (a or b):

- a. For a publicly held corporation, a copy of the most recent 3 years of audited financial reports and financial statements; or
- b. For a privately held corporation, sole proprietorship, limited liability company, partnership, or other organization or entity, financial information for the past 3 years, similar to that included in an annual report, to include at a minimum, an income statement; a statement of cash flows; a balance sheet; number of years in business; and telephone number of a contact in the Offeror's principal financial or banking organization and its auditor.

2.6 Staffing

The proposal shall describe the following:

- a. Staffing Plan: The Offeror shall provide a functional organizational chart of the proposed project structure and organization, indicating the lines of authority for proposed staff directly involved in the performance of this contract and relationships of the staff to each function of the organization. The staffing plan shall indicate the number of proposed FTEs by position and an estimate of hours to be committed to the project by each staff position. The plan shall also show the number of staff to be employed by the Contractor and staff to be obtained through subcontracting arrangements. Contact information must be provided for all key staff involved in the implementation and ongoing management of the program.

- b. Staff Qualifications and Resumes:

Job descriptions for all key staff on the project including qualifications, experience, and/or expertise required shall be included. Resumes limited to 2 pages must be included for key staff. The resumes of personnel proposed must include qualifications, experience, relevant education, professional certifications, and training for the position they will fill.

2.7. Progress Reports:

Upon award of a contract, the Contractor must prepare a written progress report, as well as telephonic meetings, monthly or more frequently, as necessary, and present this report to Purchasing Agency programmatic contact. The report must include:

- a. Status of major activities and tasks in relation to the Contractor's work plan, including specific tasks completed for each part of the project.
- b. Target dates for completion of remaining or upcoming tasks/activities.
- c. Any potential delays or problems anticipated or encountered in reaching target dates and the reason for such delays.
- d. Any revisions to the overall work schedule.

2.9 Cost Proposal

The cost proposal shall include a budget detail, budget narrative and budget summary describing the entire project.

2.10 Required Forms

- a. Complete and return Attachment A, "Contractor Data Sheet".
- b. Complete and return Attachment B, "State Corporation Commission Form.
- c. Complete and return Attachment C, "Exceptions to RFP Form".
- d. Complete and return Attachment D, "Proprietary/Confidential Information Identification Form".
- e. Complete and return Attachment E, "Small Business Subcontracting Plan

V. EVALUATION AND AWARD CRITERIA:

A. Evaluation Criteria: Proposals shall be evaluated by the Purchasing Agency using the following criteria:

1. Qualifications and experience of Offeror in providing the services described herein.
2. Technical proposal and Staffing.
3. Cost Proposal
4. DMBE Certified Small Business Subcontracting Plan.
5. References from other governmental clients, public corporations and/or organizations that support individuals with ID/DD.

B. Award Criteria: Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous (*Code of*

Virginia, § 2.2-4359D). Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

VI. GENERAL TERMS AND CONDITIONS:

- A. VENDOR'S MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia Vendor's Manual and any revisions thereto, which are hereby incorporated into this contract in their entirety, except as noted below. The procedure for filing contractual claims is in Section 7.19 of the Vendors Manual. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Vendors Manual" on the Vendors tab.
- B. APPLICABLE LAWS AND COURTS:** This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.
- C. ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. ETHICS IN PUBLIC CONTRACTING:** By submitting their proposals, offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. DEBARMENT STATUS:** By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- G. ANTITRUST:** By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS FOR RFPs

Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. CLARIFICATION OF TERMS: If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. PAYMENT:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its

prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia*, § 2.2-4363).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:
 - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
 - (2) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
 - b. The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.
3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
 4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

K. PRECEDENCE OF TERMS: The following General Terms and Conditions *VENDORS MANUAL*, *APPLICABLE LAWS AND COURTS*, *ANTI-DISCRIMINATION*, *ETHICS IN PUBLIC CONTRACTING*, *IMMIGRATION REFORM AND CONTROL ACT OF 1986*, *DEBARMENT STATUS*, *ANTITRUST*, *MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS*, *CLARIFICATION OF TERMS* shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

L. QUALIFICATIONS OF OFFERORS: The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be

requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

N. **ASSIGNMENT OF CONTRACT:** A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

O. **CHANGES TO THE CONTRACT:** Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract. **In any such change to the resulting contract, no increase to the contract price shall be permitted without adequate consideration, and no Waiver of any contract requirement that results in savings to the Contractor shall be permitted without adequate consideration. Pursuant to Section 2.2-4309 of the *Code of Virginia*, the value of any fixed-price contract shall not be increased via modification by more than 25% without the prior approval of the Division of Purchases and Supply of the Virginia Department of General Services.**
2. The Purchasing Agency may order changes within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Purchasing Agency a credit for any savings. Said compensation shall be determined by one of the following methods:
 - a. By mutual agreement between the parties in writing; or
 - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the Purchasing Agency's right to audit the Contractor's records and/or to determine the correct number of units independently; or
 - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency shall have the right to audit the records of the Contractor, as it deems necessary to determine costs or

savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Purchasing Agency within 30 days from the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the Purchasing Agency or with the performance of the contract generally.

- P. DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies, which the Commonwealth may have.
- Q. INSURANCE:** By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

- 1, Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence. (Only if motor vehicle is to be used in the contract.)

R. **ANNOUNCEMENT OF AWARD:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA VBO (www.eva.virginia.gov) for a minimum of 10 days.

S. **DRUG-FREE WORKPLACE:** During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, “*drug-free workplace*” means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

S. **NONDISCRIMINATION OF CONTRACTORS:** An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

T. **AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH:** A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during

the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

- U. **eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION:** The eVA Internet electronic procurement solution, website portal www.eVA.virginia.gov, streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. All bidders or offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected.

Effective July 1, 2011, vendor registration and registration-renewal fees have been discontinued. Registration options are as follows:

- a. eVA Basic Vendor Registration Service: eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, electronic bidding, and the ability to research historical procurement data available in the eVA purchase transaction data warehouse.
- b. eVA Premium Vendor Registration Service: eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments.

The contract will result in purchase order(s) with the eVA transaction fee specified below assessed for each order.

Vendor transaction fees are determined by the date the original purchase order is issued and are as follows:

- a. For orders issued July 1, 2011 thru June 30, 2013, the Vendor Transaction Fee is:
 - (i) DMBE-certified Small Businesses: 0.75%, capped at \$500 per order.
 - (ii) Businesses that are not DMBE-certified Small Businesses: 0.75%, capped at \$1,500 per order.
- b. For orders issued July 1, 2013 and after, the Vendor Transaction Fee is:
 - (i) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
 - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

V. **AVAILABILITY OF FUNDS:** It is understood and agreed between the parties herein that the Agency Shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

W. **SET-ASIDES:** This solicitation is set-aside for DMBE-certified small business participation only when designated "SET-ASIDE FOR SMALL BUSINESSES" in the solicitation. DMBE-certified small businesses are those businesses that hold current small business certification from the Virginia Department of Minority Business Enterprise. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received the DMBE small business certification. For purposes of award, Offerors shall be deemed small businesses, if and only if, they are certified as such by DMBE on the due date for receipt of proposals. **(This RFP is not designated as such).**

X. **BID PRICE CURRENCY**

Unless stated otherwise in the solicitation, Offerors Shall state offer prices in US dollars.

VII. **SPECIAL TERMS AND CONDITIONS:**

1. **AUDIT:** The contractor shall retain all books, records, and other documents relative to this contract for five (5) years after contract expires, or until audited by the Commonwealth of Virginia, whichever is sooner. The agency, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

2. **CANCELLATION OF CONTRACT:** The purchasing agency reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

3. **IDENTIFICATION OF PROPOSAL ENVELOPE:** The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____

_____ Name of Offeror	_____ Due Date	_____ Time
_____ Street or Box Number	_____ RFP No.	
_____ City, State, Zip Code	_____ RFP Title	

Name of Contract/Purchase Officer or Buyer_____

The envelope should be addressed as directed on Page 1 of the solicitation.

If a proposal not contained in the special envelope is mailed, the offeror takes the risk that the envelope, even if marked as described above, may be inadvertently opened and the information compromised which may cause the proposal to be disqualified. Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

4. **RENEWAL OF CONTRACT:** This contract may be renewed by the Commonwealth upon written agreement of both parties for two 3-month periods under the terms of the current contract, and at a reasonable time (approximately 90 days) prior to the expiration
5. **SUBCONTRACTS:** The Agency may allow subcontracting for a portion of the contract. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the purchasing agency the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.
6. **STATE CORPORATION COMMISSION IDENTIFICATION NUMBER:** Pursuant to Code of Virginia, §2.2-4311.2 subsection B, an offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its proposal the identification number issued to it by the State Corporation Commission (SCC). Any offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its proposal a statement describing why the offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.
7. **COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) AND THE REGULATIONS PROMULGATED THEREUNDER:**

Except as otherwise limited in this contract, contractor may use or disclose protected health information (PHI) to perform functions, activities, or services for, or on behalf of the Department of Behavioral Health and Developmental

Services as specified in this contract. In performance of contract services, Contractor agrees to:

- Not use or further disclose protected health information (PHI) other than as permitted or required by the terms of this contract or as required by law;
- Use appropriate safeguards to prevent use or disclosure of PHI other than as permitted by this contract;
- Report to the Department of Behavioral Health and Developmental Services any use or disclosure of PHI not provided for by this Contract of which it becomes aware;
- Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic Protected Health Information that it creates, receives, maintains or transmits on behalf of the Department of Behavioral Health and Developmental Services as required by the HIPAA Security Rule, 45 C.F.R. Parts 160, 162, and 164 and the American Recovery and Reinvestment Act (P.L. 111-5) when effective;
- Ensure that any agent, including a subcontractor, to whom it provides electronic Protected Health Information agrees to implement reasonable and appropriate safeguards to protect it;
- Report to the Department of Behavioral Health and Developmental Services any security incident of which it becomes aware.
- Contractor shall notify Department of Behavioral Health and Developmental Services of a breach of unsecured PHI on the first day on which such breach is known by Contractor or an employee, officer or agent of Contractor other than the person committing the breach, or as soon as possible following the first day on which Contractor or an employee, officer or agent of Contractor other than the person committing the breach should have known by exercising reasonable diligence of such breach. Notification shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Contractor to have been, accessed, acquired, used or disclosed during the breach. Contractor shall also provide the Department of Behavioral Health and Developmental Services with any other available information at the time Contractor makes notification to Department of Behavioral Health and Developmental Services or promptly thereafter as information becomes available. Such additional information shall include (i) a brief description of what happened, including the date of the breach; (ii) a description of the types of unsecured PHI that were involved in the breach; (iii) any steps the Contractor believes individuals should take to protect themselves from potential harm resulting from the breach; and (iv) a brief description of what Contractor is doing to investigate the breach, mitigate harm to individuals, and protect against any future breaches.

For purposes of this paragraph, unsecured PHI means PHI which is not encrypted or destroyed. Breach means the acquisition, access, use or disclosure of PHI in a manner not permitted by the HIPAA Privacy Rule or this contract which compromises the security or privacy of the PHI by posing a significant risk of financial, reputational, or other harm to the individual.

- Impose the same requirements and restrictions contained in this contract on its subcontractors and agents to whom contractor provides PHI received from, or created or received by a contractor on behalf of the Department of Behavioral Health and Developmental Services;
- Provide access to PHI contained in a designated record set to the Department of Behavioral Health and Developmental Services in the time and manner designated by the Department of Behavioral Health and Developmental Services, or at the request of the Department of Behavioral Health and Developmental Services, to an individual in order to meet the requirements of 45 CFR 164.524.
- Make available PHI for amendment and incorporate any amendments to PHI in its records at the request of the Department of Behavioral Health and Developmental Services;
- Document and provide to Department of Behavioral Health and Developmental Services information relating to disclosures of PHI as required for the Department of Behavioral Health and Developmental Services to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528;
- Make its internal practices, books, and records relating to use and disclosure of PHI received from, or created or received by a contractor on behalf of Department of Behavioral Health and Developmental Services, available to the Secretary of the U.S. Department of Health and Human Services Secretary for the purposes of determining compliance with 45 CFR Parts 160 and 164, subparts A and E;
- At termination of the contract, if feasible, return or destroy all PHI received from, or created or received by a Contractor on behalf of the Department of Behavioral Health and Developmental Services that the contractor still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible, extend the protections of the contract to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

Contractor may use or disclose PHI received from the Department of Behavioral Health and Developmental Services, if necessary, to carry out its legal responsibilities and for the proper management and administration of its business. Contractor may disclose PHI for such purposes if the disclosure is required by law, or if contractor obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially, that it will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person,

and that person will notify the contractor of any instances of which it is aware in which the confidentiality of the information has been breached.

8. **Late Proposals:** To be considered for selection, proposals must be received by the issuing agency by the designated date and time. Proposals received in the issuing office after the date and time designated are automatically disqualified and will not be considered. The issuing agency is not responsible for delays in the delivery of mail by the U. S. Postal Service or other couriers. It is the sole responsibility of the Offeror to insure that its proposal reaches the issuing agency's office by the designated date and time. Receipt of proposals scheduled during a period of suspended state business operations will be rescheduled for processing at the same time on the next regular business day.

VIII. METHOD OF PAYMENT:

Payment Methodology

To be negotiated.

Cost Proposal

The Offeror shall submit a cost proposal with a supporting detail budget. Administrative costs shall not include the following:

- Related party management fees in excess of actual cost
- Lobbying expenses
- Contributions
- State and federal income taxes
- Administrative fees for services provided by a parent organization, which did not represent a pass through of actual costs
- Management fees relating to non-Virginia operations or operations in Virginia for other contracts
- Management fees paid for the sole purpose of securing an exclusive arrangement for the provision of services for specific Medicaid Individuals
- Administrative fee/royalty licensing agreements for services provided by a parent organization, which did not represent a pass through of actual costs
- Accruals for future losses
- Reserves based on estimates for bankrupt providers
- Unsupported expenses
- Travel, lodging, and meals
- Expenses related to the preparation of the proposal.

Payment of Invoice

The payment of the invoice, by the Department, Shall not prejudice the Department's right to object to or question any invoice or matter in relation thereto. Such payment by the Department Shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

**ATTACHMENT A
CONTRACTOR DATA SHEET**

1. **QUALIFICATIONS OF OFFEROR:** The Offeror must have the capability and capacity in all respects in order to fully satisfy all of the contractual requirements.
2. **YEARS IN BUSINESS:** Indicate the length of time you have been in business providing this type of service: _____ years _____ months.
3. **REFERENCES:** Offerors shall provide a list of at least four (4) recent references from other governmental clients, public corporations and/or organizations that support individuals with ID/DD where similar goods and/or services have been provided. Each reference shall include the name of the organization, the complete mailing address, the name of the contact person and telephone number.

<u>ORGANIZATION</u>	<u>ADDRESS</u>	<u>CONTACT PERSON</u>	<u>TELEPHONE</u>
---------------------	----------------	-----------------------	------------------

a.) _____

b.) _____

c.) _____

d.) _____

4. Offeror name, phone number and State and date of incorporation. If not a corporation, state the type of business organization, names and addresses of owners, address and phone number of principal place of business, date business began and State in which organized:

5. Are you a subsidiary firm: ___YES ___NO. If yes, list the name and location of your parent affiliation:

6. Name and title of firm's official to who further communication should be directed:

I certify the accuracy of this information.

Signed: _____

Title: _____

IMPORTANT: THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR RESPONSE

ATTACHMENT B

STATE CORPORATION COMMISSION FORM

Virginia State Corporation Commission (SCC) registration information. The offeror:

☐ is a corporation or other business entity with the following SCC identification number:

_____ **-OR-**

☐ is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust **-OR-**

☐ is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the offeror in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from offeror's out-of-state location) **-OR-**

☐ is an out-of-state business entity that is including with this proposal an opinion of legal counsel which accurately and completely discloses the undersigned offeror's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the Code of Virginia.

****NOTE**** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for proposals (the Commonwealth reserves the right to determine in its sole discretion whether to allow such waiver): ☐

IMPORTANT: THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR RESPONSE.

EXCEPTIONS TO RFP

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Signature: _____

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ATTACHMENT D

PROPRIETARY/CONFIDENTIAL INFORMATION IDENTIFICATION

Trade secrets or proprietary information submitted by an offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protections of § 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data or other material is submitted. The written notice must specifically identify the data or materials to be protected including the section of the proposal in which it is contained, as well as the page numbers, and must state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. In addition, a summary of proprietary information submitted shall be submitted on this form. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. If, after being given reasonable time, the offeror refuses to withdraw such a classification designation, the proposal will be rejected.

Name of Firm/Offeror: _____, invokes the protections of § 2.2-4342F of the Code of Virginia for the following portions of my proposal submitted on

_____.
Date

Signature: _____

Title: _____

DATA/MATERIAL TO BE PROTECTED	SECTION NO., & PAGE NO.	REASON WHY PROTECTION IS NECESSARY

IMPORTANT: THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR RESPONSE.

ATTACHMENT E

SMALL BUSINESS SUBCONTRACTING PLAN

Definitions

Small Business: "Small business " means an independently owned and operated business which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. Note: This shall not exclude DMBE-certified women- and minority-owned businesses when they have received DMBE small business certification.

Women-Owned Business: Women-owned business means a business concern that is at least 51% owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, and both the management and daily business operations are controlled by one or more women who are citizens of the United States or non-citizens who are in full compliance with the United States immigration law.

Minority-Owned Business: Minority-owned business means a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals.

All small businesses must be certified by the Commonwealth of Virginia, Department of Minority Business Enterprise (DMBE) by the due date of the solicitation to participate in the SWAM program. Certification applications are available through DMBE online at www.dmbv.virginia.gov (Customer Service).

Offeror Name: _____

Preparer Name: _____ **Date:** _____

Instructions

- A. If you are certified by the Department of Minority Business Enterprise (DMBE) as a small business, complete only Section A of this form. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received DMBE small business certification.

- B. If you are not a DMBE-certified small business, complete Section B of this form. For the offeror to receive credit for the small business subcontracting plan evaluation criteria, the offeror shall identify the portions of the contract that will be subcontracted to DMBE-certified small business in this section. Points will be assigned based on each offeror's proposed subcontracting expenditures with DMBE certified small businesses for the initial contract period as indicated in Section B in relation to the offeror's total price.

Section A

If your firm is certified by the Department of Minority Business Enterprise (DMBE), are you certified as a **(check only one below)**:

- _____ Small Business
- _____ Small and Women-owned Business
- _____ Small and Minority-owned Business

Certification number: _____ Certification Date: _____

Section B

Populate the table below to show your firm's plans for utilization of DMBE-certified small businesses in the performance of this contract. This shall not exclude DMBE-certified women-owned and minority-owned businesses when they have received the DMBE small business certification. Include plans to utilize small businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.

B. Plans for Utilization of DMBE-Certified Small Businesses for this Procurement

Small Business Name & Address DMBE Certificate #	Status if Small Business is also: Women (W), Minority (M)	Contact Person, Telephone & Email	Type of Goods and/or Services	Planned Involvement During Initial Period of the Contract	Planned Contract Dollars During Initial Period of the Contract

Totals \$					

IMPORTANT: THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR RESPONSE.